



General Assembly

February Session, 2022

Raised Bill No. 5357

LCO No. 2618



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

AN ACT CONCERNING MANDATORY OVERTIME FOR NURSES IN HOSPITALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-490l of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2022*):

3 (a) As used in this section:

4 (1) "Nurse" means a registered nurse or a practical nurse licensed
5 pursuant to chapter 378, or a nurse's aide registered pursuant to chapter
6 378a; [and]

7 (2) "Hospital" has the same meaning as set forth in section 19a-490
8 and includes a home health care agency as defined in section 19a-490;
9 and

10 (3) "Overtime" means working (A) in excess of a predetermined
11 scheduled work shift, regardless of the length of the shift, provided such
12 scheduled work shift is determined and communicated not less than
13 forty-eight hours prior to the commencement of such scheduled work
14 shift, (B) more than twelve hours in a twenty-four-hour period, (C)

15 during the ten-hour period immediately following the end of the
 16 previous shift of eight hours or more, or (D) more than forty-eight hours
 17 in any hospital-defined work week.

18 (b) [No] Except as provided in this section, no hospital may require a
 19 nurse to work [in excess of a predetermined scheduled work shift,
 20 provided such scheduled work shift is determined and promulgated not
 21 less than forty-eight hours prior to the commencement of such
 22 scheduled work shift] overtime. It shall be unlawful to discriminate,
 23 discharge, discipline, threaten to discipline or discharge or otherwise
 24 retaliate against a nurse for refusing to work overtime.

25 (c) Any nurse may volunteer or agree to work [hours in addition to
 26 such scheduled work shift] overtime, but the refusal by a nurse to accept
 27 such [additional hours] overtime shall not be grounds for
 28 discrimination, dismissal, discharge or any other penalty or
 29 employment decision adverse to the nurse. Notwithstanding the
 30 foregoing, a nurse shall not be permitted to work in excess of sixteen
 31 consecutive hours in a twenty-four-hour period. In the event a nurse
 32 works sixteen consecutive hours, such nurse shall be given not less than
 33 ten consecutive hours of off-duty time immediately following such
 34 sixteen-hour work period.

35 [(c) The] (d) Where the safety of a patient requires it, and when there
 36 is no reasonable alternative, the provisions of subsection (b) of this
 37 section shall not apply: (1) To any nurse participating in [a] an ongoing
 38 surgical procedure until such procedure is completed; (2) to any nurse
 39 working in a critical care unit until such nurse is relieved by another
 40 nurse who is commencing a scheduled work shift; (3) in the case of a
 41 public health emergency; or (4) in the case of an institutional emergency,
 42 including, but not limited to, adverse weather conditions, catastrophe
 43 or widespread illness, that in the opinion of the hospital administrator
 44 will significantly reduce the number of nurses available for a scheduled
 45 work shift, provided the hospital administrator has made a good faith
 46 effort to mitigate the impact of such institutional emergency on the
 47 availability of nurses, [; or (5) to any nurse who is covered by a collective

48 bargaining agreement that contains provisions addressing the issue of
49 mandatory overtime.]

50 (e) Before requiring a nurse to work overtime in accordance with the
51 provisions of subsection (d) of this section, the hospital shall make a
52 good faith effort to have such overtime hours covered on a voluntary
53 basis. Mandatory overtime shall not be required as a regular practice for
54 providing appropriate staffing for the necessary level of patient care, or
55 in any situation that is the result of routine staffing needs caused by
56 typical staffing patterns, expected levels of absenteeism or time off
57 typically approved by the hospital for vacation, holidays, sick leave and
58 personal leave.

59 (f) Each hospital shall report all occurrences of mandatory overtime
60 and the circumstances requiring its use to the Department of Public
61 Health. Such reports shall be public documents. A copy of the report
62 shall also be provided to the hospital's staffing committee. The report
63 shall include: (1) The date of occurrence, (2) an occurrence narrative that
64 includes the type of situation set forth in subsection (d) of this section
65 permitting the use of mandatory overtime, or that certification that the
66 mandatory overtime was permitted under subsection (h) of this section,
67 (3) the number of hours of mandatory overtime the nurse was required
68 to work, and (4) a certification that the mandatory overtime was
69 required for patient safety, there was no reasonable alternative to
70 mandatory overtime and the hospital made a good faith effort to seek
71 volunteers.

72 (g) Any nurse or group of nurses may file a civil action against a
73 hospital that violates any provision of this section. Any nurse or group
74 of nurses that prevails in any such action shall be awarded actual
75 damages, removal of any discipline from file, attorney's fees and
76 statutory damages not less than two hundred fifty dollars or more than
77 one thousand dollars for each violation of subsections (b), (c) and (e),
78 inclusive, of this section and not less than one hundred dollars or more
79 than five hundred dollars for each violation of subsection (f) of this
80 section. Such nurse or group of nurses may also be awarded

81 reinstatement to their job or jobs with backpay, if no longer employed
82 by the hospital.

83 (h) (1) The provisions of this section shall not be construed to alter or
84 impair the terms of any bona fide collective bargaining agreement that
85 place additional restrictions or limitations on the use of mandatory
86 overtime.

87 (2) The provisions of subsection (b) of this section shall not prohibit
88 mandatory overtime with respect to any nurse who is covered by a bona
89 fide collective bargaining agreement in effect before October 1, 2022,
90 that contains provisions addressing the issue of mandatory overtime
91 until the expiration date of the collective bargaining agreement.

92 (3) The provisions of subsection (b) of this section shall not prohibit
93 mandatory overtime with respect to any nurse who is covered by a bona
94 fide collective bargaining agreement under chapter 68 of the general
95 statutes to the extent such collective bargaining agreement permits
96 mandatory overtime, provided that mandatory overtime for reasons set
97 forth in subsection (d) of this section shall be a mandatory subject of
98 bargaining, and mandatory overtime for reasons other than those set
99 forth in subsection (d) of this section shall be a permissible subject of
100 bargaining.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2022	19a-490l
-----------	-----------------	----------

Statement of Purpose:

To put limitations on the mandatory overtime required of nurses.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]